

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

EDDIE HEAD,

Plaintiff,

v.

ANNE L. PRECYTHE,

Defendant.

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No. 1:21-cv-00047-SRC

Memorandum and Order

This matter is before the Court on its own motion. On August 3, 2021, the Court directed plaintiff to either pay the full filing fee or submit a motion for leave to proceed in forma pauperis. Doc. 2. Plaintiff has failed to respond. Therefore, for the reasons discussed below, this action will be dismissed without prejudice for failure to comply with the Court's order. *See* Fed. R. Civ. P. 41(b).

Discussion

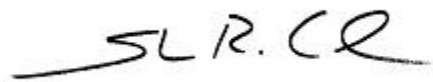
Plaintiff is a self-represented litigant who is currently incarcerated at the Southeast Correctional Center in Charleston, Missouri. On March 3, 2021, he filed a civil action pursuant to 42 U.S.C. § 1983, naming Anne Precythe as the defendant. Doc. 1. Plaintiff did not file a motion for leave to proceed in forma pauperis or pay the filing fee.

On August 3, 2021, the Court ordered plaintiff to either file a motion for leave to proceed in forma pauperis or pay the filing fee within thirty days. Doc. 2. To aid him, plaintiff was sent a copy of the Court's motion to proceed in forma pauperis form. The Court advised plaintiff that the failure to comply with the order would result in the dismissal of this action without prejudice and without further notice. Plaintiff's response was due on or before September 2, 2021.

More than thirty days have elapsed and plaintiff's deadline for complying with the Court's order has expired. The Court has not received any response from plaintiff. Specifically, plaintiff has not submitted a motion for leave to proceed in forma pauperis, paid the filing fee, or sought an extension of time. Under Rule 41(b), an action may be dismissed for failure to comply with a court order. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (stating that district court may dismiss a pro se litigant's action for failure to comply with a court order on its own initiative). Because plaintiff has not complied with the Court's order of August 3, 2021, or filed any type of motion seeking an extension of time in which to comply, the Court will dismiss this action without prejudice.

Accordingly, the Court dismisses this action without prejudice for failure to comply with the Court's order of August 3, 2021. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith. The Court further orders that the dismissal of this action shall not constitute a "strike" under 28 U.S.C. § 1915(g). Lastly, an appeal from this dismissal would not be taken in good faith.

So Ordered this 16th day of September 2021.

A handwritten signature in black ink, appearing to read "SLR. CR", is written above a horizontal line.

STEPHEN R. CLARK
UNITED STATES DISTRICT JUDGE